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January 6, 2023

VIA ECF

The Honorable Philip M. Halpern
United States District Judge
Southern District of New York
300 Quarropas Street, Courtroom 520
White Plains, New York 10601

**Re: *Chabak v. Somnia, Inc.*, Case No. 7:22-cv-09341
 Carrasco v. Somnia, Inc., Case No. 7:22-cv-09535;
 Polk v. Somnia, Inc., Case No. 7:22-cv-09549
 Booth Harris v. Somnia, Inc., et al., Case No. 7:22-cv-09550
 Weiscope v. Resource Anesthesiology Assocs. of IL, P.C., et al., Case No. 7:22-cv-09643
 Henderson, et al. v. Somnia, Inc. et al., Case No. 7:22-cv-09960
 Sommers v. Somnia, Inc., Case No. 7:22-cv-10572**

Dear Judge Halpern:

We represent Defendants (together, “Somnia”) in the above-referenced matters (the “Related Actions”).¹ We write in response to this Court’s Order of December 14, 2022 (ECF No. 9 in Case No. 7:22-cv-09341), the letter filed by Plaintiff Amanda Carrasco (ECF No. 10 in Case No. 7:22-cv-09535), and the responses filed by the remaining plaintiffs on December 21, 2022 (ECF No. 10 in Case No. 7:22-cv-09341; ECF No. 12 in Case No. 7:22-cv-10572).

In their respective letters, all Plaintiffs submit that consolidation of the Related Actions is appropriate under Federal Rule of Civil Procedure 42(a). Although Somnia disputes Plaintiffs’ descriptions of the underlying facts and denies all wrongdoing, Somnia agrees that consolidation is warranted given the substantial factual and legal overlap between these actions. Somnia further agrees that consolidation will best further the goal of judicial efficiency, avoid the need for costly and duplicative briefing on the same issues in multiple cases, and eliminate the risk of inconsistent judgments. Somnia therefore joins in Plaintiffs’ request that this Court consolidate all of the above-referenced actions pursuant to Rule 42(a).

Somnia also requests, upon ordering consolidation, that this Court order Plaintiffs to file a single, consolidated complaint raising all claims that Plaintiffs intend to pursue. As with

¹ The undersigned counsel from Bleakley Platt & Schmidt, LLP have filed appearances in each of the above-referenced actions. Christopher G. Dean and Christopher F. Allen of McDonald Hopkins LLC additionally expect to file motions for admission *pro hac vice* in the *Chabak* case. Given the potential consolidation of these actions, Mr. Dean and Mr. Allen do not expect to file *pro hac vice* applications in the other cases. However, Mr. Dean and Mr. Allen intend to represent Somnia in each of these cases and will file *pro hac vice* applications in each case if necessary, should the Court determine that consolidation is not warranted here.

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consolidation generally, Somnia submits that the filing of a consolidated complaint will preserve judicial resources and avoid the need for duplicative briefing on substantially the same issues across multiple cases. Somnia has conferred with counsel for Plaintiffs, and all Plaintiffs have confirmed that they have no objection to the filing of a consolidated class complaint. If the Court is amenable to the filing of a consolidated class complaint, Somnia proposes that Plaintiffs be granted 30 days from the date that interim lead class counsel is appointed to file a consolidated complaint, and that Somnia be given 45 days from the filing of the consolidated complaint to answer or otherwise respond to that complaint.

In an abundance of caution, Somnia further requests that if the Court finds a consolidated complaint is not warranted, Somnia be granted an additional 30 days from its existing February 1, 2023 response deadline in all cases, through and including March 3, 2023, to answer or otherwise respond to each of Plaintiffs' complaints. Somnia submits that such extension through March 3, 2023 is warranted under the circumstances, where seven separate actions involving at least some factual allegations specific to each plaintiff and theories of relief that are not identical in all respects, are pending. Relatedly, given the short amount of time between the January 25th hearing and Somnia's February 1st response deadline, and to avoid wasting Somnia's limited resources in preparing responses now to the existing complaints that could be mooted by the filing of a consolidated complaint, Somnia respectfully requests the Court provide an early indication of whether it will grant the 30-day extension through and including March 3, 2023 in the event it declines to order the filing of a consolidated complaint.

Finally, Somnia takes no position on Plaintiffs' competing proposals for leadership of the putative class.

Thank you for your time and consideration of this request. We will await further word from the Court.

Respectfully submitted,

Bleakley Platt & Schmidt, LLP



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